

OGC HAS REVIEWED.

LS 6-0604a

20 March 1956

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: Termination of Agency Employees

1. I have reviewed the study on termination of employees sent by the Inspector General to the Deputy Director. There are several of the assumptions and arguments in this paper with which I would take exception, but inasmuch as I think we can reach agreement on the recommendations, there is no point in debating them here.

2. While I believe I have been correct in the past in maintaining the Director's statutory authority to terminate was primarily given as a security power, it is quite clear that technically it is not so limited by its own language and may be used to terminate for any valid reason. I have been against using it for what I may call administrative discharges as opposed to security discharges on the ground that we should not so use it until we have established a really valid basis for exercising it in administrative cases. That time may very well have come, and if that is the policy decision I have no legal objection.

3. If it is to be used in the case of administrative discharges, I believe there are two points that must be kept in mind. The first is that the procedures used in implementing the Director's authority should not become a means for supervisors avoiding their management responsibility. There has been a tendency in the case of the so-called "Mediocrity Board" for offices to turn cases over to it in effect washing their hands and saying to take it from here. I believe the Director's authority is there only to backstop proper administration, and the supervisor must still complete his job in coordination with the Office of Personnel before referring it on to higher authority. If the proper job is then done at the supervisor's level, the only real purpose served by invoking the Director's authority is to foreclose those who otherwise would have a right to appeal to the Civil Service Commission from so appealing. This is the second point I had in mind that in essence invoking the Director's authority in administrative cases will be necessary only in the case of veterans who refuse to accept our administrative determination.

4. It seems to me that if I am correct on the completed management work, serious consideration should be given to handling these administrative

cases without reference to Employment Review Boards. There is no legal requirement for a Board, although I am more convinced than ever that they are almost essential in the security cases.

5. If, however, you received a good record on an administrative discharge and had a security recommendation that it should not be appealed to the Commission, I see no reason why a direct recommendation by you to the Director would not be sound procedure. Such a straight-line procedure might be restricted to clear-cut misbehavior, disobedience of orders, or poor performance cases, with Employment Review Boards still utilized in all security-loyalty cases and those cases which have the aspects of the Executive Order 10450 program generally. As a specific example, I saw no reason why an Employment Review Board had to sit on the [] case, and yet that is clearly a case where I think the Director's authority could properly be utilized if termination is indicated. I still think we should lean over backwards a bit on utilizing an Employment Review Board, but anything we can do to eliminate the burden that they put on high-ranking Agency officials and the long delays involved would be to the advantage of all concerned.

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